

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:	§	Case No. 21-32292
	§	
NB LOFT VUE DST, <i>et al.</i>	§	Chapter 11
	§	
Debtors.	§	(Jointly Administered)
	§	

STIPULATION OF FACTS REGARDING OCTOBER 28, 2021 HEARING

This Stipulation (the “Stipulation”) is entered into by and between NB Loft Vue, DST (“Loft Vue”), NB Vue Mac, DST (“Vue Mac” and collectively with Loft Vue, the “Debtors”) and Fannie Mae (collectively with the Debtors, the “Parties”).

RECITALS

WHEREAS, on July 6, 2021 (the “Petition Date”), Debtors each filed voluntary petitions for relief under Chapter 11 of Title 11 of the U.S. Code (11 U.S.C. §§ 101 *et seq.*, herein after referred to as the “Bankruptcy Code”);

WHEREAS, on July 20, 2021, this Court entered an Order (Doc. No. 17) for joint administration of the Debtors’ bankruptcy cases;

WHEREAS, on September 13, 2021, Fannie Mae filed its *Motion for Stay Relief from the Automatic Stay as to Property of Debtor NB Vue Mac DST* (Doc. No 89) and its *Motion for Stay Relief from the Automatic Stay as to Property of Debtor NB Loft Vue DST* (Doc. No. 90) (collectively the “Stay Relief Motions”);

WHEREAS, the Debtors filed their responses to the Stay Relief Motions on October 1, 2021 (Doc. Nos. 103 and 104);

WHEREAS, as of the date of this Stipulation, the Debtors are in possession of their property and remain in control of their businesses and no trustee or committee has been appointed in this case;

WHEREAS, the Parties have agreed to certain stipulations of fact in connection with the hearing on the Stay Relief Motions (the “Final Hearing”);

NOW, THEREFORE, after good-faith, arms-length negotiations, in consideration of the foregoing, it is hereby stipulated and agreed as follows:

1. For purposes of the Final Hearing, the amount of Fannie Mae’s claim against Loft Vue is not less than \$11,208,643.54, calculated as follows:

Principal Balance (after 1/1/21 payment):	\$10,712,000.00
Interest (3.82000000 % from (1/1/2021) through (7/6/21)):	\$211,419.17
Default Interest from (5/1/2020 through 7/7/2021):	\$514,176.02
Per Diem:	\$1,136.66
UCC Termination Fee:	\$125.00
Re-conveyance Fee:	\$45.00
Estimated Legal Fees & Costs:	\$40,053.38
Appraisal:	\$9,300.00
Phase I Environmental Site Assessment:	\$2,700.00
Physical Needs Assessment:	\$3,900.00
LESS:	
Suspense Funds Held-Unapplied Funds:	\$41,115.70
Suspense Tax Escrow Funds:	\$89,110.64
Suspense Insurance Escrow Funds:	\$22,567.53
Replacement Reserves:	\$30,661.21
Completion Repair Funds:	\$46,161.61
Other (DST Trust Reserve):	\$56,595.00
TOTAL:	\$11,208,643.54

Fannie Mae reserves the right to introduce evidence with respect to the Prepayment Premium and to argue that the Prepayment Premium is a valid portion of Fannie Mae’s prepetition claim against Loft Vue. The Debtors reserve the right to introduce evidence with respect to the Prepayment

Premium and to argue that the Prepayment Premium is not a valid portion of Fannie Mae's prepetition claim against Loft Vue.

2. For purposes of the Final Hearing, the amount of Fannie Mae's claim against Vue Mac is not less than \$23,698,144.56, calculated as follows:

Principal Balance (after 1/1/21 payment):	\$22,847,423.23
Interest (4.59000000 % from (3/1/20) through (7/6/21)):	\$1,433,218.87
Default Interest from (11/1/2020 through 7/7/2021):	\$632,486.51
Late Charges (if applicable):	\$4,597.75
UCC Termination Fee:	\$125.00
Re-conveyance Fee:	\$45.00
Tax Advance by Servicer:	\$920,108.24
Estimated Legal Fees & Costs:	\$35,569.24
Appraisal:	\$9,300.00
Phase I Environmental Site Assessment:	\$2,900.00
Physical Needs Assessment:	\$4,300.00
LESS:	
Suspense Funds Held-Unapplied NOI:	\$1,806,241.47
Suspense Tax Escrow Funds:	\$199,852.13
Replacement Reserves:	\$88,764.18
Other (DST Trust Reserve):	\$97,071.50
TOTAL:	\$23,698,144.56

Fannie Mae reserves the right to introduce evidence with respect to the Prepayment Premium and to argue that the Prepayment Premium is a valid portion of Fannie Mae's prepetition claim against Vue Mac. The Debtors reserve the right to introduce evidence with respect to the Prepayment Premium and to argue that the Prepayment Premium is not a valid portion of Fannie Mae's prepetition claim against Vue Mac.

3. Berkeley Point Capital LLC ("Berkeley") made a loan to Loft Vue in the original principal amount of \$10,712,000.00 ("Loft Vue Loan") pursuant to that certain Multifamily Loan and Security Agreement dated September 30, 2016 ("Loft Vue Loan Agreement") executed by and between Loft Vue and Berkeley.

4. The Loft Vue Loan is further evidenced by that certain Multifamily Note dated September 30, 2016 (“Loft Vue Note”), made by Loft Vue payable to Berkeley in the original principal amount of \$10,712,000.00.

5. To secure the obligations to Berkeley under the Loft Vue Note, Loft Vue granted to Rebecca S. Conrad, as trustee for the benefit of Berkeley, all of its interests in real property located at 3125 McCart Avenue and 3120 Forrest Park Blvd., Fort Worth, Texas 76110 (the “Loft Vue Property”), as described in that certain Multifamily Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated September 30, 2016 (“Loft Vue Security Instrument”), executed by Loft Vue in favor of Berkeley. The Security Instrument was recorded on September 30, 2016 in the official records of Tarrant County, Texas as Instrument Number: D216230304. In the Loft Vue Security Instrument, Loft Vue assigned its rights in the leases and rents related to the Loft Vue Property to Berkeley.

6. Berkeley assigned all of its rights and interests in the Loft Vue Loan Agreement, Loft Vue Note, Loft Vue Security Instrument, and other loan documents to Fannie Mae pursuant to that certain Assignment of Collateral Agreements and Other Loan Documents dated September 30, 2016 and Assignment of Security Instrument dated September 30, 2016 (collectively, the “Loft Vue Assignments”), Berkeley assigned all of its rights and interests in the Loft Vue Loan Agreement, Loft Vue Note, Loft Vue Security Instrument, and other loan documents to Fannie Mae. The Assignment of Security Instrument was recorded on September 30, 2016 in the official records of Tarrant County, Texas as Instrument Number: D216230305. The Assignment of Security Instrument was recorded on September 30, 2016 in the official records of Tarrant County, Texas as Instrument Number: D216230305.

7. Loft Vue and Fannie Mae entered into a Forbearance Agreement dated April 30, 2020 and executed May 8, 2020 (“Loft Vue First Forbearance Agreement”).

8. On July 15, 2020, Loft Vue executed a Letter Agreement with Berkeley with respect to the Loft Vue Loan (the “Loft Vue Prenegotiation Letter”).

9. After the expiration of the forbearance period under the First Forbearance Agreement, Loft Vue was unable to make payments due under the Loft Vue Loan Documents. By letter dated August 24, 2020 (“Loft Vue Notice of Default”), Fannie Mae, through counsel, accelerated the maturity of the Loft Vue Loan and notified Loft Vue of the defaults, that all outstanding Obligations were due and immediately payable, and that Fannie Mae may institute foreclosure proceedings on the Loft Vue Property.

10. Fannie Mae, Loft Vue and the guarantors of the Loft Vue Loan subsequently executed that certain Loan Modification Agreement on November 1, 2020 (“Loft Vue First Modification”).

11. Loft Vue was unable to make payments due under terms of the Loft Vue First Modification, and by letter dated December 4, 2020 (“Loft Vue Post-Modification Notice of Default”), Fannie Mae, through counsel, accelerated the maturity of the Vue Mac Loan and notified Loft Vue that all outstanding Obligations were due and immediately payable and that Fannie Mae may institute foreclosure proceedings on the Loft Vue Property.

12. Fannie Mae, Loft Vue and the guarantors of the Loft Vue Loan subsequently executed that certain Forbearance and Second Loan Modification Agreement on January 5, 2021 (“Loft Vue Second Modification”).

13. Loft Vue was unable to make payments due under terms of the Second Modification, and by letter dated May 3, 2021 (“Loft Vue Second Post-Modification Notice of

Default”), Fannie Mae, through counsel, accelerated the maturity of the Loft Vue Loan and notified Loft Vue that all outstanding Obligations were due and immediately payable and that Fannie Mae may institute foreclosure proceedings on the Loft Vue Property.

14. Fannie Mae posted the Loft Vue Property for foreclosure on July 6, 2021.

15. On July 6, 2021, Loft Vue filed its bankruptcy petition to prevent Fannie Mae from foreclosing on the Loft Vue Property.

16. Berkeley made a loan to Vue Mac in the original principal amount of \$23,265,000.00 (“Vue Mac Loan”) pursuant to that certain Multifamily Loan and Security Agreement dated December 18, 2015 (“Vue Mac Loan Agreement”) executed by and between Vue Mac and Berkeley.

17. The Vue Mac Loan is further evidenced by that certain Multifamily Note dated December 18, 2015 (“Vue Mac Note”), made by Vue Mac payable to Berkeley in the original principal amount of \$23,265,000.00.

18. To secure the obligations to Berkeley under the Vue Mac Note, Vue Mac granted to Rebecca S. Conrad, as trustee for the benefit of Berkeley, all of its interests in real property located at 4460 S. MacGregor Way, Houston, Texas 77021 (the “Vue Mac Property”), as described in that certain Multifamily Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated December 18, 2015 (“Vue Mac Security Instrument”), executed by Vue Mac in favor of Berkeley.

19. Berkeley assigned all of its rights and interests in the Vue Mac Loan Agreement, Vue Mac Note, Vue Mac Security Instrument and other loan documents to Fannie Mae pursuant to that certain Assignment of Collateral Agreements and Other Loan Documents dated December 18, 2015 and Assignment of Security Instrument dated December 18, 2015 (collectively, the “Vue

Mac Assignments”). The Assignment of Security Instrument was recorded on December 18, 2015 in the official records of Harris County, Texas as Instrument Number: 20150570035.

20. Vue Mac and Fannie Mae entered into a Forbearance Agreement dated May 5, 2020 and executed May 8, 2020 (“First Forbearance Agreement”).

21. On July 15, 2020, Vue Mac executed a Letter Agreement with Berkeley with respect to the Loft Vue Loan (the “Vue Mac Prenegotiation Letter”).

22. After the expiration of the forbearance period under the First Forbearance Agreement, Vue Mac was unable to make payments due under the Vue Mac Loan Documents. By letter dated August 24, 2020 (“Vue Mac Notice of Default”), Fannie Mae, through counsel, accelerated the maturity of the Vue Mac Note and notified Vue Mac of the defaults, that all outstanding Obligations were due and immediately payable, and that Fannie Mae may institute foreclosure proceedings on the Property.

23. Fannie Mae, Vue Mac and the guarantors of the Vue Mac Loan subsequently executed that certain Loan Modification Agreement on November 1, 2020 (“Vue Mac First Modification”).

24. Vue Mac was unable to make payments due under terms of the Vue Mac First Modification, and by letter dated December 4, 2020 (“Vue Mac Post-Modification Notice of Default”), Fannie Mae, through counsel, accelerated the maturity of the Vue Mac Loan and notified Vue Mac that all outstanding Obligations were due and immediately payable and that Fannie Mae may institute foreclosure proceedings on the Vue Mac Property.

25. Fannie Mae, Vue Mac and the guarantors of the Vue Mac Loan subsequently executed that certain Forbearance and Second Loan Modification Agreement on January 5, 2021 (“Vue Mac Second Modification”).

26. Vue Mac was unable to make payments due under terms of the Second Modification, and by letter dated May 3, 2021 (“Vue Mac Second Post-Modification Notice of Default”), Fannie Mae, through counsel, accelerated the maturity of the Loan and notified Vue Mac that all outstanding Obligations were due and immediately payable and that Fannie Mae may institute foreclosure proceedings on the Vue Mac Property.

27. Fannie Mae posted the Vue Mac Property for foreclosure on July 6, 2021.

28. On July 6, 2021, Vue Mac filed its bankruptcy petition to prevent Fannie Mae from foreclosing on the Vue Mac Property.

29. Since the Petition Date, the Debtors have received one offer to purchase the Vue Mac Property, in the amount of \$15,750,000 and have received no offers to purchase the Loft Vue Property.

30. The October 2021 Rent Roll for the Loft Vue Property reflects an occupancy rate of 98.6%.

31. The October 2021 Rent Roll for the Vue Mac Property reflects an occupancy rate of 44.4%.

32. The Parties stipulate that the following joint exhibits may be admitted into evidence:

- Exhibit 1: Vue Mac Loan Agreement (Doc. 122-1)
- Exhibit 2: Loft Vue Loan Agreement (Doc. 122-2)
- Exhibit 3: Vue Mac Note (Doc. 122-3)
- Exhibit 4: Loft Vue Note (Doc. 122-4)
- Exhibit 5: Vue Mac Security Instrument (Doc. 122-5)
- Exhibit 6: Loft Vue Security Instrument (Doc. 122-6)

- Exhibit 7: Vue Mac Assignments (Doc. 122-7)
- Exhibit 8: Loft Vue Assignments (Doc. 122-8)
- Exhibit 9: Vue Mac First Forbearance Agreement (Doc. 122-9)
- Exhibit 10: Loft Vue First Forbearance Agreement (Doc. 122-10)
- Exhibit 11: Vue Mac Prenegotiation Letter (Doc. 122-11 & Doc. 123-15)
- Exhibit 12: Loft Vue Prenegotiation Letter (Doc. 122-12 & Doc. 123-14)
- Exhibit 13: Vue Mac Notice of Default (Doc. 122-13)
- Exhibit 14: Loft Vue Notice of Default (Doc. 122-14)
- Exhibit 15: Vue Mac First Modification (Doc. 122-15)
- Exhibit 16: Loft Vue First Modification (Doc. 122-16)
- Exhibit 17: Vue Mac Post-Modification Notice of Default (Doc. 122-17)
- Exhibit 18: Loft Vue Post-Modification Notice of Default (Doc. 122-18)
- Exhibit 19: Vue Mac Second Modification (Doc. 122-19)
- Exhibit 20: Loft Vue Second Modification (Doc. 122-20)
- Exhibit 21: Vue Mac Second Post-Modification Notice of Default (Doc. 122-21)
- Exhibit 22: Loft Vue Second Post-Modification Notice of Default (Doc. 122-22)
- Exhibit 23: Vue Mac Rent Roll as of October 2021 (Doc. 122-23)
- Exhibit 24: Loft Vue Rent Roll as of October 2021 (Doc. 122-24)
- Exhibit 25: Vue Mac Income Statement – September 2020-September 2021 (Doc. 122-25)
- Exhibit 26: Loft Vue Income Statement – September 2020-September 2021 (Doc. 122-26)
- Exhibit 27: Vue Mac Operating Statement – December 2020 (Doc. 122-27)

- Exhibit 28: Loft Vue Operating Statement – December 2020 (Doc. 122-28).

AGREED TO THIS 27TH DAY OF OCTOBER, 2021.

By: /s/ Daniel J. Ferretti

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